

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JESSIE JEROME LEE,

Plaintiff,

v.

WAYNE COUNTY, *et al.*,

Defendants.

Case No. 11-10209

Arthur J. Tarnow

United States District Judge

Michael Hluchaniuk

United States Magistrate Judge

**REPORT AND RECOMMENDATION
WAYNE COUNTY'S MOTION TO DISMISS (Dkt. 33)
RECOMMENDATION TO DISMISS UNSERVED
AND UNIDENTIFIED DEFENDANTS**

On January 18, 2011, plaintiff filed a prisoner civil rights action against defendants, Wayne County and the City of Detroit and various employees and agents of these entities. (Dkt. 1). On April 26, 2011, the City of Detroit defendants filed a motion to dismiss the complaint on the grounds of failure to state a claim and statute of limitations. (Dkt. 9). This matter was referred to the undersigned for all pretrial proceedings by District Judge Arthur J. Tarnow on April 27, 2011. (Dkt. 10). On January 19, 2012, the undersigned recommended that defendants' motion be granted because plaintiff's claims are barred by the statute of limitations. (Dkt. 28). This recommendation was adopted by the District Court. (Dkt. 30).

Defendant Wayne County has filed a motion to dismiss the complaint on the same grounds as discussed in the earlier report and recommendation. (Dkt. 33). In the view of the undersigned, the claims against defendant Wayne County, the unidentified Doe defendants, and the unserved defendant Joseph Swilling should be dismissed for the same reasons set forth in the earlier report and recommendation, given that nothing in the complaint suggests that the claims against these defendants should be analyzed differently.

For these reasons, the undersigned **RECOMMENDS** that defendant Wayne County's motion to dismiss be **GRANTED** and that all claims against defendant Wayne County, defendant Swilling, and the unidentified Doe defendants be **DISMISSED** with prejudice.

The parties to this action may object to and seek review of this Report and Recommendation, but are required to file any objections within 14 days of service, as provided for in Federal Rule of Civil Procedure 72(b)(2) and Local Rule 72.1(d). Failure to file specific objections constitutes a waiver of any further right of appeal. *Thomas v. Arn*, 474 U.S. 140 (1985); *Howard v. Sec'y of Health and Human Servs.*, 932 F.2d 505 (6th Cir. 1981). Filing objections that raise some issues but fail to raise others with specificity will not preserve all the objections a party might have to this Report and Recommendation. *Willis v. Sec'y of Health and Human Servs.*, 931 F.2d 390, 401 (6th Cir. 1991); *Smith v. Detroit Fed'n of*

Teachers Local 231, 829 F.2d 1370, 1373 (6th Cir. 1987). Pursuant to Local Rule 72.1(d)(2), any objections must be served on this Magistrate Judge.

Any objections must be labeled as “Objection No. 1,” “Objection No. 2,” etc. Any objection must recite precisely the provision of this Report and Recommendation to which it pertains. Not later than 14 days after service of an objection, the opposing party may file a concise response proportionate to the objections in length and complexity. Fed.R.Civ.P. 72(b)(2), Local Rule 72.1(d). The response must specifically address each issue raised in the objections, in the same order, and labeled as “Response to Objection No. 1,” “Response to Objection No. 2,” etc. If the Court determines that any objections are without merit, it may rule without awaiting the response.

Date: April 17, 2012

s/Michael Hluchaniuk
Michael Hluchaniuk
United States Magistrate Judge

CERTIFICATE OF SERVICE

I certify that on April 17, 2012, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system, which will send electronic notification to the following: Joseph G. Rogalski and John A. Schapka, and I certify that I have mailed by United States Postal Service the foregoing pleading to the plaintiff, a non-ECF participant, at the following address: Jesse Jerome Lee, #209293, PARNALL CORRECTIONAL FACILITY, 1780 E. Parnall, Jackson, MI 49201

s/Tammy Hallwood

Case Manager

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